

Response to Office Action Mailed September 30, 2005

A. Claims In The Case

Claims 6-20, 31, and 78 have been rejected. Claims 6, 31, and 78 have been amended. Claims 6-20, 31, and 78 are pending in the case.

B. The Claims Are Definite Pursuant to 35 U.S.C. § 112, paragraph 2 and 35 U.S.C. § 101.

The Examiner rejected claims 6-20, 31, and 78 under 35 U.S.C. § 101 and 112 stating:

Claims 6-20, 31, and 78 clearly describe an apparatus with corresponding processor, while at the same time, describes the method for using the device. As such these claims and subsequent dependent claims are rejected under 35 U.S.C. 101 and 112 under the rationale described above.

In support of the rejections under 35 U.S.C. §101, the Office Action cites the *Lyell* case. The individual claims at issue in *Lyell* claimed both an apparatus and a method. Specifically, the claim preamble recited: “An automatic transmission tool in the form of a workstand and method for using same comprising....” (emphasis added). In contrast, Applicant’s claims 6, 31, and 78 are directed to one statutory class only, namely, to a method. Applicant therefore respectfully disagrees with the rejections of Applicant’s claims under 35 U.S.C. §101.

Furthermore, the Examiner, in an Office Action mailed July 28, 2004, states:

A computer, a network, or a machine must be in the preamble and the body of the claim to perform the method in order for the claim to comply with being technological and patentable.

Doughty, Steven G.
09/699,037

Although Applicant disagrees with the Examiner's rejections, to expedite prosecution, Applicant has amended the claims for clarification. Applicant submits that, pursuant to the Examiner's suggestion, the claims comply with U.S.C. 101 and 112.

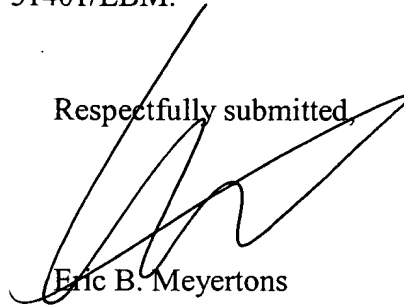
C. Summary

Based on the above, Applicant submits that all claims are now in condition for allowance. Favorable reconsideration is respectfully requested.

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If any extension of time is required, Applicant hereby requests the appropriate extension of time. Applicant respectfully believes no fees are due with the submission of this response. If any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5053-31401/EBM.

Respectfully submitted,



Eric B. Meyertons
Reg. No. 34,876
Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TEXAS 78767-0398
Ph. 512-853-8800 Fax 512-853-8801

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